

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
May 26, 2021

The Highland Board of Zoning Appeals met on the Zoom Platform, Meeting ID: 949 9388 5550, Passcode: 576280 on May 26, 2021 at 6:30 p.m. Central Time (US and Canada). Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Thomas.

ROLL CALL: Present were Board Members Mr. Martini, Mr. Grzynski, Mr. Thomas and Mrs. Murovic. Also present was Building Commissioner/Zoning Administrator, Mr. Ken Mika and Town Attorney, Mr. John Reed.

MINUTES: The minutes of the April 28th, 2021 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be June 23rd, 2021.

Old Business: Approval of Findings of Fact for Rogelio Castillo, 2145 41st Place, Highland, IN 46322, requesting a variance to replace a fence beyond the build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mr. Martini motioned to approve the Findings of Fact. Mr. Grzynski seconded and the motion was approved with a roll call vote of 4 – 0.

COMMUNICATIONS: Regarding New Business: Public Hearing for F & E Ventures, LLC, 473 N. Oak Street, Elmhurst, IL 60126, C/O Scott Yahne, 9301 Calumet Avenue, Munster, IN 46321, requesting a Use Variance to construct a Car Wash in an Overlay District on the property located at 8955 Indianapolis Blvd., Highland, IN. {HMC 18.45.030} (C) (h) Permitted uses restricted in Overlay District. {HMC 18.115.050} Use Variance to permit Car Wash, which is not a permitted use.

Mrs. Murovic stated that a letter had been received by Commissioner Mika and Attorney Reed from Scott E. Yahne, representing F & E Ventures, requesting a deferral of their petition that was originally scheduled to be heard at tonight's meeting. Mr. Grzynski motioned to grant the deferral of the petition until the June 23rd BZA meeting. Mr. Thomas seconded and the motion was unanimously approved by a roll call vote of 4 – 0.

New Business: Public Hearing for Price Point Builders, LLC, PO Box 1343, Crown Point, IN 46308, requesting a Use Variance to allow for the construction of two Single Family Homes on the two lots located at 8535 Henry Street, Highland, IN 46322. {HMC 18.40.020} (A) Limitations of use. Dwelling units are not permitted below the second floor on lots which contain a business use. The property is zoned B-2 (Central Business District). The existing residential use is legal non-conforming.

Mrs. Murovic asked Attorney Reed if the Proof of Publication was in order. Mr. Reed confirmed that it had been published within the correct time frame. Mr. Mika confirmed the signs had also been posted correctly.

Camille Schoop stated her name and address and said she would be representing Price Point Builders for this petition. She continued that they are seeking a Use Variance to allow for the construction of two single family homes on two lots located at 8535 Henry Street. She went on to say that there were many single family homes on the street currently and they would take down the existing structure that is on the property and build single family homes on the lots. She stated there were two 50' lots and they also wanted to reduce the lot widths from the required 60' to 50' and the required minimum lot area from 7,200 square feet, to 7,000 square feet. She then referred to a GIS showing the surrounding lots on Henry Street which were all mostly 50' in width. She continued that she had submitted a site plan and two possible homes they would like to build on these lots. She said the two lots were sub-divided but did not yet have separate parcel ID numbers. Price Point Builders wanted to make the lots have two separate parcel ID numbers, two addresses and build two separate houses on each lot. Mr. Mika stated that the two lots were currently legally sub-divided. Ms. Schoop stated they wanted to make the two new houses conform to what is currently on Henry Street. Mr. Mika stated that the purpose of this hearing was for the petitioner to seek a Use Variance to be allowed to construct two single family homes on the lots located at 8535 Henry Street and again stated that the properties are located in a B-2 Zoned District, which does not allow for residences above the first floor of a commercial use and that the existing residential use is legal non-conforming. He continued that the petitioner will have to file for whatever Developmental Variances may be required at a later date, which at this time we are assuming may be for lot width and minimum lot coverage and for whatever else may be

needed, depending on what eventually is proposed. This evening the Board will motion to give a favorable/unfavorable recommendation to the Town Council to allow the construction of the single family homes in a B-2 district. Mrs. Murovic stated that the site plan was just submitted to show the possible placement of the proposed homes on the two adjoining lots. Mr. Mika agreed and added that this would be a vast improvement to what was existing currently and would eliminate a problem that has existed for a few years with the condition and maintenance of this property and the structure on it. Mrs. Murovic agreed.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she brought the discussion back to the Board.

Mr. Martini motioned to grant a favorable recommendation to the Town Council for the Price Point Builders Use Variance to allow residential use and the building of two single-family homes at 8535 Henry Street within a B-2 Central Business District. Mr. Thomas seconded and the motion was unanimously approved by a roll call vote of 4 – 0.

New Business: Public Hearing for RPS Highland, LLC, 8301 Indianapolis Blvd., Highland, IN 46322, C/O Jared Tauber, 1415 Eagle Ridge Drive, Schererville, IN 46375, requesting a Use Variance to use the property at 8301 Indianapolis Blvd., Highland, IN 46322 for a Logistics Hub and Storage Facility for car parts. {HMC 18.45.030} (C) (h) Permitted uses restricted in Overlay District.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed responded that it was in order and published in the correct time frame and was legal and proper. Mr. Mika confirmed the sign had also been posted correctly.

Mrs. Murovic asked if there was someone present to represent this petition. Mr. Jared Tauber introduced himself and stated his address of 1415 Eagle Ridge Drive, Schererville, IN 46375. He stated he would be representing RPS Highland, LLC. He continued to say that he had come across this group that purchases property back in December and they were an investment group out of South Carolina. He continued that he was working on the other side on some leases on an out building when they approached him about trying to help them with this because they were located so far away and it would have been difficult for them to get here. He continued they were a group of three individuals that are very interested in Highland and the community here due to their purchase of the property. He stated that they had been doing a very good job of getting the buildings rented after they had been sitting vacant for years. He stated that he had provided the Board with a PowerPoint presentation and asked that the Board follow along with him as he went through the presentation. He stated the second page was a layout of the current complex with three buildings and approximately 114,000 square feet of rentable space. In suites #2 & #4 they will be introducing America's Antique Mall and have pulled permits for this, will be beginning construction in the near future and plan to open by the end of summer. They have already rented out the entire out lot building which used to contain the Chinese Kitchen restaurant, a hair stylist and a dry cleaning business; they are currently waiting for the tenants to open their businesses.

The location of the requested Use Variance for this petition is suite #6, which is 31,500 square feet of the existing north building. Mr. Tauber continued that a Third Party Logistics company had approached the owners and said that this space would really suit their needs. The company interested holds product for the Ford Manufacturing Company, which is their largest client. They are located across the border in Illinois and have a problem with storage of the car parts before they have to get them to Ford. Ford will only take them as they need them, so a problem arises after they are manufactured and before they have to be shipped to Ford. Mr. Tauber stated that all the car parts that needed to be stored are smaller parts, nothing as big as bumpers or wheels. He then pointed out that the owners planned very few façade changes immediately. If they proposed any changes in the future, they would change all three of the building facades together at that time. He stated there may not even be a sign for the proposed facility. He continued that there would only be approximately 5 to 10 employees running the operation. Mr. Tauber then pointed out that when this partnership purchased the property in December of 2020, the property was 85% vacant. The property is now 35% unleased and if this Use Variance is granted, the vacancy will only be 7.7%. Mr. Tauber also stated that the petitioner was willing to make a favorable recommendation for this Use Variance contingent upon only this tenant signing the lease. If for some reason they did not sign and establish their business in this building, the partnership would be okay with this Use Variance not staying with the property and any future interested party that had a business not allowed by the current zoning would have to come back in front of the Board with their petition. Mr. Tauber then pointed out that this business would bring jobs to the area, they were a support business for the car manufacturing industry, all the loading and unloading would be done in the rear of the building and the current layout of the building does allow for trucks to access the rear of the building. He continued that there may be a tight squeeze at some points in the back, but that any retail business would have trucks in and out at some points of the day. He stated that he was told that the truck traffic with this particular business would be light at about 5 – 10 trucks per day. He stated that the owners had hired an engineering company to design the proposed truck route, which was shown in one of the slides in his presentation. The trucks would enter the back of the property from the northwest side and then continue going southeast behind the building, drop off the load, then continue on going the other way in a big circle. He continued that there were a couple of advantages to the center for having this type of business occupying the space, such as the fact that they would not need any parking use for the 31,500 square foot building, as there would be no foot traffic. He pointed out that the Antique Mall would probably be able to utilize some of that if they did well in the summer months and it would cut down on the congestion in the parking lot. He continued that there would be zero hazardous materials used in conjunction with this tenant and the only equipment they would operate would be a couple of gas-powered fork lifts that might be seen at a Lowe's or a Home Depot. He then pointed out that defining a hardship for this petitioner would include the fact that there were a limited number of properties in Highland that allowed industrial use. He continued that the only area he could think of was the area behind Webb Ford and that he was not sure if there were any opportunities back in that area. He then pointed out that the proposed use would not affect the neighboring businesses and would be compatible with them. He stated that there is currently a full scale redevelopment surge in the area and it is a major

advantage to have these buildings occupied rather than vacant and any opportunity to do this would help the Town of Highland to develop and make the area better and only improve it. He concluded by saying he was asking the Board to give them a favorable recommendation to the Town Council and his client regretted not being able to be at the meeting. Mr. Tauber then stated he would be happy to answer any questions anyone may have.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she brought the discussion back to the Board.

Mr. Grzynski commented that he did not see this proposed logistics hub and storage facility as a good fit at this location, as all the other businesses were largely retail. He continued that he felt a more appropriate location would be in the light industrial area on Express Drive behind Webb Ford. He also stated that he did not want to push away business in Highland, but felt this particular business would fit better in another location. Mr. Martini asked Mr. Tauber if the proposed business would be a “Just in Time” storage facility for Ford. Mr. Tauber responded that he believed Ford was there largest client. Mr. Martini then continued to ask where the 31,500 square feet would be located in relation to the total 100,000 + square feet and Mr. Tauber replied it would be sandwiched in the middle of the total space. Mr. Martini then asked if an individual would be able to walk in the building. Mr. Tauber replied that there would be no access to the public. Mr. Thomas asked if the trucks would be parking at the facility overnight. Mr. Tauber replied that they would not, all they would do is unload and leave, or load and leave. Mrs. Murovic asked if Mr. Tauber said there would be 5 – 10 trucks per day. Mr. Tauber confirmed that was correct. Mr. Thomas stated he saw potential problems with the congestion at the mall and having trucks trying to navigate through to the back of the property. He asked if there would be lines painted to direct the trucks to the rear loading and unloading area. Mr. Tauber replied that he didn’t have a great answer for that question, but when looking at the proposed truck route by the engineer, it looked as though the trucks would be routed to the northwest, to access the road that would take them to the back of the building. Mr. Thomas stated that he saw a problem with the trucks and felt there were safety issues with this, as the plaza was largely retail. Mr. Tauber pointed out again that any major business that may occupy the space would very likely have semi’s accessing the back of the building. Mr. Thomas asked what the hours of operation of the proposed business would be. Mr. Tauber stated he was not aware of the hours. Mr. Thomas then stated that he could see possibly if they had the trucks going in and out from 11:00 p.m. to 7:00 a.m., but during the day, he could not see it being safe. Mrs. Murovic stated that she agreed with Mr. Thomas and if they were estimating 5 – 10 trucks per day, this could be more than most retail stores may have in a whole week. She then pointed out that if there was no access to the public, the building would have the appearance of still being vacant. Mr. Thomas pointed out than 5 – 10 trucks per day could be as many as 50 per week. Mrs. Murovic added this could be a maximum, but still was a lot of truck traffic for a retail area and potential customers walking to and from their cars with children. She then stated the area was retail and this appeared to be more of a warehouse usage. Mr. Tauber agreed. He then stated that his client took a chance on Highland and it would be very helpful for them to get the Use Variance due the fact that

they would have to put no more money into the space if it were approved. Mr. Thomas added he believed that there were a few industrial spaces available down by Spring Street and behind Webb Ford that were available and may be more suited for this particular type of business. Mrs. Murovic added that they were very appreciative of Mr. Tauber's clients purchasing the strip mall and investing in Highland; however, she felt the usage for this business wasn't appropriate in that particular spot.

Mr. Thomas motioned to give an unfavorable recommendation to the Town Council for the Use Variance request by RPS Highland, LLC for the property at 8301 Indianapolis Blvd. regarding a proposed Logistics Hub and Storage Facility. Mr. Grzyski seconded and the motion was passed unanimously with a roll call vote of 4 – 0.

New Business: Public Hearing for ASA ABOVE THEREST, LLC, 702 E. Washington Street, Shelbyville, IN 46176, requesting a variance to install a sign measuring 446.2 square feet at the location of 10251 Indianapolis Blvd., Highland, IN 46322, which exceeds the standard allowed square footage in the Zoning Ordinance. {18.83.030} (B) (3) (b) For multi-use and mixed-use buildings, the maximum gross area for permanent business signs shall be either one square foot for each linear foot of frontage that the building occupies, or 150 square feet, whichever is less.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed replied it was in order, published in the statutory time frame. Mr. Mika confirmed the sign was also posted in the appropriate time frame.

Mrs. Murovic asked if there was anyone present to represent this petition. Mistie Nigh of ASA Above The Rest replied, stated her address and that she would be representing the petition for ASA Above The Rest, along with her associate from Atlas Signs, Kaytlyn Sandmeyer, 707 Commerce Drive, Concord, NC.

Ms. Nigh stated that Total Wine was a family owned business that offered wine, beer and spirits, among other things and currently had over 200 stores and over 7,000 employees. She continued that what they were asking for is that the signage they put up in their new location in Highland be similar to what the surrounding stores have now and not look out of place or different from the other signage. Ms. Sandmeyer shared the screen to present the proposed sign graphic for Total Wine. She stated that they would be proposing some changes to the current façade, which was previously Dick's Sporting Goods. She showed the next slide that illustrated the distance off the main road of Indianapolis and stated it was at least 700'. She added they were located in the center of the plaza. She then showed the neighboring stores and each of their signs, adding that they were very proportionate to their store fronts. She showed the graphic drawing of the Total Wine sign again and pointed out that there was a lot of dead space within the sign due to the fact that they had more information on the sign than their neighbor's signs, but that it was necessary and needed to remain on the sign. The square footage number of 446 was higher due to this dead space. She stated they had 168' of store frontage and were 700' off of the road. She stated that as far as visibility, they were presenting this sign

proportionate to the store front and nothing obnoxious as far as an eye sore. She added they were comparable to neighboring tenants and this size would fit well within the plaza. Mr. Grzyski asked that Ms. Sandmeyer share the slide with the smaller logo example. Ms. Sandmeyer said she could do that and brought up the slide. Mr. Grzyski stated that he felt the example of the graphic showing the smaller sign example at the required 150 square feet was too small for the store and looked awkward. Mr. Martini agreed and said the smaller sign just did not look right. Mr. Thomas also agreed.

Mrs. Murovic stated that she wanted to open the discussion to the Board if there was no remonstrance from the public, which there were none.

Mr. Martini stated he favored the larger sign in the slide that was first shown in the presentation. Mrs. Murovic pointed out that the first sign shown was almost 3 times as large as what is allowed. She added that a lot of the other signs had just the name of the business, while the proposed sign for Total Wine had a name, a tag line and a graphic. Mr. Thomas added that the Target sign was approximately 200 square feet and he didn't see why Total Wine would need a sign bigger than Target, when Target is a much larger store. He continued that he would agree with around 200, but felt that 400 was rather sizable. He added that at over 400 square feet, the sign itself would be a third the size of the building. Mrs. Murovic pointed out that billboards are at 350 square feet, so this proposed sign was larger than a billboard. Mistie Nigh pointed out that with Target, they just had the name of the business and a logo. She continued that with their sign they had to shrink down the tag line and the logo. Mrs. Murovic stated that they could possibly just have the name of the business and a graphic, then they wouldn't have to shrink it down so much. She added that they were trying to put out a lot of advertisement with the sign by adding the tag line. She continued that she felt they were almost creating a billboard on a building. Mr. Thomas pointed out that the grapes alone were over 6', which he felt was huge. Ms. Sandmeyer stated that there were challenges with the logo and that the tag line was used on most of the Total Wine store signs. She stated that the actual sign type was only 328 square feet, but a lot was lost in the dead space. Ms. Sandmeyer asked if the Board would consider her reducing the tag line only, which was currently proposed at 100 square feet, to approximately half of that, but keep the Total Wine wording and grape graphic as it is. Mrs. Murovic stated that they wouldn't start separating areas out or eliminating white spaces. Ms. Sandmeyer stated she understood and that they would have to reduce the tag line as well. Mrs. Murovic asked what the square footage was without the tag line. Ms. Sandmeyer replied that would be 326 square feet. Mrs. Murovic stated she felt they would not have a lack of visibility in that mall and the space was in demand there. Mr. Grzyski asked Ms. Sandmeyer if she had concerns about making the logo smaller. She replied by asking if he meant just the grape logo, or the whole sign. Mr. Grzyski said he meant the whole sign. He continued by saying he was thinking they should keep the tag line, "Spirits, Beer & More" because if someone didn't drink wine, they may pass it by. Ms. Sandmeyer agreed that the tag line was crucial because there were many states where they cannot have the other products and letting customers know this is crucial to the store and their advertisement. She continued that they could certainly reduce the entire sign to a more reasonable size. She added that just by reducing the channel letters to 5' from the proposed 5'6" would reduce

the sign to 369 square feet. Mistie Nigh added that she understood the neighboring signs were larger because they were under a different ordinance, but asked that the Board consider what a much smaller sign would look like next to the others. She felt it would look out of place. Mrs. Murovic stated that the new sign would actually be more up to date by conforming to the new ordinance. Ms. Sandmeyer asked if there was a date that the other nearby signs would have to change their signs to come into compliance. Mr. Mika answered by stating if any of the neighboring businesses requested to change their existing signs, they would have to follow the current sign ordinance and bring them into compliance. Mrs. Murovic added that she felt the proposed sign was just too large and too far over the maximum square footage allowed. Mr. Martini asked Mr. Mika if the Highland Grove Plaza was built as a PUD. Mr. Mika stated it was not built as a Planned Unit Development. Mr. Thomas asked what the maximum square footage was with the old ordinance before it was changed. Mr. Mika stated he was not sure, but it was liberal and also gave exceptions to buildings that were set back off the street, as this one was. Mrs. Murovic stated that she had seen Total Wine stores down south and the signs appeared to be smaller than this proposed sign. She added that they did not look odd to her when they did not fill the entire white space and actually looked more appealing esthetically. Mr. Mika stated that he believed this store would also be entitled to a face on the existing free-standing sign on Indianapolis Boulevard, as well as this building-mounted sign. Ms. Nigh confirmed that was correct. Ms. Sandmeyer stated that if they reduced the total sign area to 369 square feet, they would be at just about half of the sign band. She continued they would still be proportionate with the sign, being set back from the road and she added they do give a lot away to dead space with this particular sign design. Mrs. Murovic stated she felt it was still too large and would like to see the sign reduced more. Ms. Sandmeyer asked if the Board would consider approving the sign with the tag line removed. Mistie Nigh stated that removing the tag line would change the entire logo because all the other stores had the tag line. Mrs. Murovic said she did not think the sign example at 150 square feet looked out of place and continued by asking if they could compromise by going somewhat bigger than 150, but not as large as 369 square feet. Ms. Nigh asked what size the Board would accept them reducing the sign to. Ms. Sandmeyer asked if the Board would be willing to accept 250 square feet. Mr. Thomas said that he would find that acceptable as a compromise due to the fact that the store was set back from Route 41 by 700'. Mr. Martini stated that he preferred the sign at 369 square feet and continued to mention the Ashley Furniture sign being larger. Mr. Mika replied that the Ashley sign did not qualify under the newer sign ordinance and also mentioned that the previous tenant that had occupied the Ashley location had been granted two sign variance approvals by the BZA that were extremely large. Ms. Sandmeyer stated that Total Wine was intending to be a long term tenant of the location and the family was very excited to expand their stores across the nation and added that they were looking at additional locations in Indiana. She also stated that in her experience, rather than add a new sign that would have to be minimized in size to meet compliance, many of the existing tenants with larger signs will reface their signs and update lighting in order to keep their existing size for many years to come. She continued that unless a new tenant goes into any of the neighboring stores, all of them will have signage that is much larger than theirs if they are not granted a comparable sign

square footage. She then stated if the Board could agree to a medium ground with a proportionate sign, it would benefit the overall aspect of the plaza.

Mrs. Murovic stated that she felt that 250 square feet was a much more reasonable size, especially due to distance of the set back from the road.

Mr. Thomas motioned to approve the Developmental Sign Variance requested by ASA Above The Rest, for the Total Wine store, 10251 Indianapolis Blvd. at 250 square feet.

Mr. Grzynski seconded and the motion unanimously passed with a roll call vote of 4 – 0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzynski Second: Mr. Thomas Time: 7:50 p.m.